

COMMONWEALTH OF MASSACHUSETTS

SUFFOLK, SS

State Building Code Appeals Board  
Docket No. 05-460

BOARD'S RULING ON APPEAL

All hearings are audio recorded. The digital recording (which is on file at the office of the Board of Building Regulations and Standards) serves as the official record of the hearing. Copies of the recording are available from the Board for a fee of \$10.00 per copy. Please make requests for copies in writing and attach a check made payable to the Commonwealth of Massachusetts for the appropriate fee. Requests may be addressed to:

Patricia Barry, Coordinator  
State Building Code Appeals Board  
BBRS/Department of Public Safety  
One Ashburton Place - Room 1301  
Boston, MA 02108

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Kevin Hastings	)
Appellant,	)
	)
v.	)
	)
City of Boston, Tom O'Donnell	)
Appellees	)

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Procedural History

This matter came before the State Building Code Appeals Board ("the Board") on the Appellant's appeal filed pursuant to 780 CMR 122.1. In accordance with 780 CMR 122.3, Appellant asks the Board to grant a variance from 403.2, 904.2, 906.2.1, of the Massachusetts State Building Code ("MSBC") and Chapter 148 Section 26A of MGL pertaining the property of W-Boston Hotel and Residences, 100 Stuart Street, Boston, MA 02116. In accordance with MGL c. 30A, §§ 10 and 11; MGL c. 143, §100; 801 CMR 1.02 et. Seq.; and 780 CMR 122.3.4, the Board convened a public hearing on August 21, 2007 where all interested parties were provided with an opportunity to testify and present evidence to the Board.

Present and representing himself was the Appellant. Also present was Derrick Morse.

**Decision:** Following testimony, and based upon relevant information provided, Board members voted as indicated below.

☐..... Granted

☐..... Denied

☐..... Rendered Interpretation

**X.....Granted with conditions (see below)**

☐..... Dismissed

The vote was:

☐ .....Unanimous

**X ..... Majority**

**Reasons for Variance:**

Testimony was presented by the Appellant, which described the project which includes the construction of a new high rise hotel and condominium building along with retail and other amenities on the lower floors. The building will be 27 stories in height with 2 underground parking levels. The code requires that the entire building, including the transformer vault, be protected with sprinklers. NSTAR however requires that transformer vaults not be sprinklered. The Appellant reviewed 11 construction and fire protection methods that will be implemented in lieu of sprinklering the vault. These methods, which are on file with the other material in this case, are similar to those incorporated in other vaults given variance relief from sprinklering under the provisions of the MSBC. Included as Exhibit #1 for this case was a letter from the City of Boston ISD in support of a favorable decision in the matter of 100 Stuart Street, if alternative methods of protection are incorporated.

Following testimony, and based upon relevant information provided, Sandy MacLeod made a motion to grant the variance from 403.2, 904.2, 906.2.1, of the Massachusetts State Building Code and Chapter 148 Section 26A of MGL with the following conditions:

1. That an additional door be added to Stairway #3 and made into another vestibule and set of doors, so that smoke, from a potential transformer fire, cannot lead up into the stairwell.

The motion was seconded by Jake Nunnemacher and a vote was taken. Brian Gale and Sandy Macleod voted in favor of the motion and Jake Nunnemacher voted against the motion.



Chairman - Brian Gale



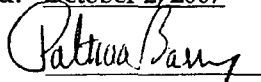
Alexander MacLeod



Jake Nunnemacher

A complete administrative record is on file at the office of the Board of Building Regulations and Standards.

A true copy attest, dated: October 2, 2007

  
Patricia Barry, Clerk

Any person aggrieved by a decision of the State Building Code Appeals Board may appeal to a court of competent jurisdiction in accordance with Chapter 30A, Section 14 of the Massachusetts General Laws.